IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

WP(C).No. 23763 of 2007(D)

AGAINST THE ORDER IN EP 159 2005 IN
OS.1114/2003 of PRL.MUNSIFF COURT,THRISSUR

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PETITIONER:

V. GIRIJAN,
S/O. KUNNATHUPARAMBIL BALAN NAIR,KANATTUKARA DESOM
THRISSUR VILLAGE, THRISSUR DISTRICT.

BY ADV. SRI.JIJO PAUL

RESPONDENTS:

PERPETUAL CHITTIES AND
HIRE PURCHASES (P) LTD., THRISSUR TALUK,
THRISSUR VILLAGE, REPRESENTED BY ITS
MANAGING DIRECTOR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

WP(C)No. 23763 OF 2007 D

Dated this the 3rd August, 2007.

JUDGMENT

This writ petition is preferred against the order of the Munsiff, Thrissur in E.P.159/05 in O.S.1114/03. The prayer in the E.P is to arrest the first respondent therein and attach the salary of respondents 2, 3 and 4. The court on 2.3.2007 ordered as follows:

> "Not produced salary certificate. Attach Rs.2,000/-, Rs.1,500/- and Rs.1,000/- from the monthly salaries of respondents 2 to 4 respectively till the decree debt is paid in full"

The court below should not have resorted to such an order in the absence of a salary certificate. The court should have directed by summoning the salary certificate to be produced to find out what is the attachable salary. Secondly the court should have never ordered attachment for more than 24 months. So the order, per se suffers from serious infirmity and therefore it is set aside. The matter is remitted back to the executing court for fresh consideration and disposal in accordance with law. The parties are directed to adduce both documentary and oral evidence in support of their contentions. Writ petitioner is directed to appear before the court on 7.9.2007 and on that day the court may intimate the decree holder and fix a

date for enquiry into the matter. Writ petition is disposed of accordingly.

M.N.KRISHNAN
Judge

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